

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: 03/16/2005Division: BOCCBulk Item: Yes ☐ No ☒Department: DISTRICT FIVEStaff Contact Person: Donna Hanson

AGENDA ITEM WORDING: Discussion of Purchasing Rowell's Marina to meet the goals of the proposed Interim Development Ordinance on water front property.

ITEM BACKGROUND: Rowell's Marina is currently under contract for private development. This property is a working marina that should be purchased to preserve access to the marine environment.

PREVIOUS RELEVANT BOCC ACTION:

CONTRACT/AGREEMENT CHANGES:

STAFF RECOMMENDATIONS:

TOTAL COST: _____

BUDGETED: Yes ☐ No ☐**COST TO COUNTY:** _____**SOURCE OF FUNDS:** _____**REVENUE PRODUCING:** Yes ☐ No ☐ **AMOUNT PER MONTH** _____ **Year** _____**APPROVED BY:** County Atty _____ OMB/Purchasing _____ Risk Management _____**DIVISION DIRECTOR APPROVAL:** _____

(TYPE NAME HERE)

DOCUMENTATION: Included ☒ Not Required ☐**DISPOSITION:** _____**AGENDA ITEM #** _____

ORDINANCE NO. 2005

AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS ADOPTING AN INTERIM DEVELOPMENT ORDINANCE DEFERRING THE ACCEPTANCE OF DEVELOPMENT APPLICATIONS FOR THE REDEVELOPMENT AND CONVERSION OF MARINE FACILITIES INCLUDING COMMERCIAL MARINAS AND THE WORKING WATERFRONT UNTIL LAND DEVELOPMENT REGULATIONS AND COMPREHENSIVE PLAN AMENDMENTS ARE DRAFTED; PROVIDING FOR EXEMPTIONS; PROVIDING FOR TRANSMITTAL TO FLORIDA DEPARTMENT OF COMMUNITY AFFAIRS (DCA); AND PROVIDING FOR EXPIRATION WITHIN 365 DAYS OR WHEN THE AMENDMENTS BECOME EFFECTIVE, WHICHEVER COMES FIRST.

WHEREAS, the Board of County Commissioners at their meeting of August 18, 2004, directed staff to have a public water access and marine facilities plan prepared for Monroe County; and,

WHEREAS, the Board of County Commissioners discussed a "No Net Loss" of public access to the waterfront policy at their December 16, 2004 meeting; and

WHEREAS, Monroe County is experiencing the loss of and redevelopment of marine facilities including commercial marinas and the working waterfront including boatyards, wet and dry storage, fish houses and commercial fishing vessel dockage at an unprecedented rate; and

WHEREAS, there is great concern that if nothing is done to control this redevelopment that future losses of waterfront facilities will negatively affect the economy and bring an end to critical marine services (e.g. boat yards), commercial marinas that are available to the public and traditional trades associated with commercial fishing; and

WHEREAS, a number of waterfront owners are exploring the possible change of use of their property to private residential uses and private exclusive use of dockage which will further decrease the public access and/or working waterfront; and

WHEREAS, Goal 212 of the 2010 Comprehensive Plan directs the County to prioritize shoreline land uses and establish criteria for shoreline development in order to preserve and enhance coastal resources and to ensure the continued economic viability of the County; and

WHEREAS, Goal 213 of the 2010 Comprehensive Plan directs the County to ensure adequate public access to the beach or shoreline; and

WHEREAS, Objective 502.1 of the 2010 Comprehensive Plan directs the County to promote the preservation and enhancement of the existing ports and port related activities; and

WHEREAS, the County does not have an accurate inventory of pertinent waterfront facility locations and specific waterfront uses and a thorough understanding of the socio-economic data on existing waterfront marine facilities; and

WHEREAS, the County recognizes the need to develop comprehensive plan and land development regulations and programs to preserve marine facilities including commercial

marinas and the working waterfront; and

WHEREAS, the Board of County Commissioners at their meeting of January 19, 2005, voted to contract with the South Florida Regional Planning Council to prepare the public water access and marine facilities plan and implementation measures including Comprehensive Plan and Land Development Regulations; and

WHEREAS, the County has committed necessary staff and resources to the development of these policies and regulations; and

WHEREAS, the utilization of the moratorium device as a temporary measure to facilitate government decision making, study and adoption of comprehensive plan and land development regulations is a legitimate governmental tool to facilitate logical and considered growth and as a means of avoiding inefficient and ill-conceived development; and

WHEREAS, the County finds that it is necessary to enact an Interim Development Ordinance deferring the acceptance of development applications that seek development approval for the redevelopment of waterfront properties; and

WHEREAS, Chapter 125, F.S. authorizes the Board of County Commissioners to adopt ordinances to provide standards protecting against imminent and immediate threat to the health, safety and welfare of the citizens of Monroe County; and

WHEREAS, this Interim Development Ordinance constitutes a valid exercise of the County's police power and is otherwise consistent with Section 163.316, *et seq.*, F.S., which, *inter alia*, encourages the use of innovative land development regulations including provisions like moratoria to implement the adopted comprehensive plan; and

WHEREAS, the Board of County Commissioners at a regular meeting on January 19, 2005, directed staff to prepare an ordinance deferring acceptance of applications for redevelopment of marine facilities including commercial marinas and the working waterfront (boatyards, wet and dry storage, fish houses and commercial fishing vessel dockage) while staff prepares amendments to the 2010 Comprehensive Plan and Land Development Regulations; and

WHEREAS, following direction of the Board of County Commissioners, the Growth Management staff immediately undertook the development of this Interim Development Ordinance and preparation of a contract for the development of a public water access and marine facilities plan and implementation measures including Comprehensive Plan and Land Development Regulations; and

WHEREAS, the Planning Commission has reviewed the draft Interim Development Ordinance and recommended approval to the Board of County Commissioners; and

WHEREAS, the Board of County Commissioners has reviewed and considered the draft Interim Development Ordinance recommended by the Planning Commission and Planning staff; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

Section 1. The purpose and intent of this Interim Development Ordinance is in accordance with the Board of County Commissioners' directive of January 19, 2005, to prepare an interim development ordinance to prevent further redevelopment and conversion of marine facilities including commercial marinas and the working waterfront, to implement a policy of "No-Net-Loss" of public access to marine facilities while legislation is being prepared.

Section 2. Redevelopment and conversion of existing uses and structures, as used in this ordinance, includes the following:

- Any change of use from a water dependent use to a water enhanced or a non-water dependent use of a commercial marina.
- Any division of uplands and/or bay bottom of existing marine facilities into individual parcels regardless of type of ownership.
- Any modification, improvements or expansions of existing marine facilities resulting in loss of public access from both land and water to the waterfront and waterbody.
- Any change of use of the working waterfront to a commercial marina or a non-water dependent use.

Section 3. The following definitions apply in this ordinance:

- Existing uses and structures means those uses and structures in existence prior to and including February 28, 2005.
- Commercial marina means a facility with three or more slips for the mooring, berthing, storing or securing of watercraft and may include accessory retail and service uses, but not including docks accessory to land based dwelling units or individual berths under private ownership.
- Marine facility means commercial marinas, the working waterfront, and any other public access point including boat ramps that provide public access to the navigable waters of the state.
- Public access means the ability of members of the public to physically reach, enter or use a water-body by either land or water.
- Working waterfront means a parcel or parcels of real property that provide access for water dependent boatyards, wet and dry storage, fish houses (fish landings, processing and packaging) and commercial fishing vessel dockage; it does not mean commercial marinas for the dockage of pleasure craft.
- Water dependent use means a use or portions of a use that can only be carried out on, in or adjacent to water areas because the use requires access to the water body.

- Water enhanced use means a use that is not a water dependent use but benefits economically or aesthetically by its location on the waterfront; examples include restaurants, hotels and residential uses.

Section 4. During the time this ordinance is in effect as specified herein, there shall be a moratorium upon the issuance of building permits, acceptance of development applications or issuance of development orders and development permits within unincorporated Monroe County concerning the redevelopment and conversion of marine facilities including commercial marinas and the working waterfront, except as provided herein.

Section 5. Exempt from this ordinance is general maintenance, repair and/or safety improvements.

Section 6. Pursuant to its lawful authority and the pending legislation doctrine as set forth in *Smith v. City of Clearwater*, 383 So.2d 681 (Fla. 2d DCA, 1980) the Board of County Commissioners hereby establishes the interim development regulations set forth in this Ordinance, which shall remain in full force and effect until the expiration of this legislation within one year of its effective date or whenever the plan and land development regulations become effective, whichever comes first.

Section 7: Until expiration of this Interim Development Ordinance no building permit application or planning approval for any development or redevelopment that meets the criteria for review identified in Section 2 hereof, shall be granted pursuant to an application or request with a submittal date of March 1, 2005, or later.

Section 8: Any building permit application or planning approval with a submittal date of February 28, 2005, or earlier shall be exempt from this Interim Development Ordinance.

Section 9: As of the effective date of this Ordinance no building permit application or development approval meeting the criteria for review identified in Section 2 hereof, shall be accepted or processed by the Growth Management Division, except applications exempt hereunder and development awarded a vested rights determination pursuant to Section 11 hereof.

Section 10: This Ordinance shall not be construed to prohibit the issuance of a building permit or planning approval for any development or redevelopment that does not meet the criteria for review identified in Section 2 hereof that is allowed pursuant to the Monroe County Land Development Regulations and the 2010 Comprehensive Plan.

Section 11: Any property owner adversely affected by the provisions of this Interim Development Ordinance may seek a determination that the owner's proposed development or redevelopment is vested against the provisions of this Interim Development Ordinance, by filing with the Director of Growth Management, together with an administrative fee in the amount of \$400, a vested rights application setting forth facts establishing the applicant met, prior to the date that this Ordinance is adopted by the Board of Monroe County Commissioners, the vested rights standards set forth in Section 9.5-181, Monroe County code. Such application must be filed no later than sixty (60) days after the effective date of this ordinance.

Section 12: The County Administrator is directed to have the Growth Management Division begin immediately preparing the draft text amendments and other supporting studies in